

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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TROY M. TENACE,

Petitioner,

vs.

9:01-CV-228

MARGARET BAGLEY, Warden;  
ATTORNEY GENERAL FOR THE STATE OF NEW YORK,

Respondents.

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THOMAS J. McAVOY,  
Senior United States District Judge

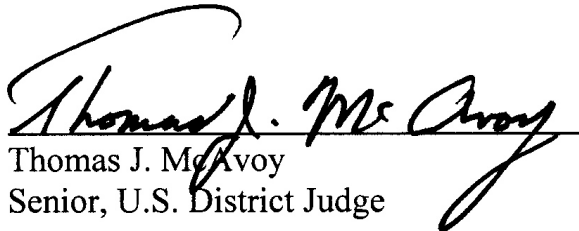
**DECISION & ORDER**

Petitioner's application for a Certificate of Appealability made to the United States Court of Appeals for the Second Circuit was referred to this Court for a decision and order. Having reviewed the matter, including Petitioner's papers submitted in support of the Certificate of Appealability, the Court finds that the application must be denied because Petitioner fails to make a substantial showing of a denial of a constitutional right. See 28 U.S.C. § 2253(c)(2). In addition, Petitioner has failed to demonstrate that "jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling." Slack v.

McDaniel, 529 U.S. 473, 120 S.Ct. 1595, 1604, 146 L.Ed.2d 542 (2000); see Miller-El v. Cockrell, 537 U.S. 322, 123 S.Ct. 1029, 1039-1040 (2003). Therefore, it is hereby

**ORDERED** that a Certificate of Appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure and 28 U.S.C. § 2253(c) (2) is **DENIED**.

DATED: May 2, 2006

  
Thomas J. McAvoy  
Senior, U.S. District Judge